

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOSE JESUS MADRIGAL-DIAZ

Petitioner,

v.

UNITED STATES OF AMERICA

Respondent.

Criminal No. 07-00309-WHA

**STIPULATION AND ~~PROPOSED~~ ORDER
FOR CONTINUANCE OF EVIDENTIARY
HEARING ON PETITIONER'S 28 U.S.C.
§ 2255 PETITION**

IT IS HEREBY STIPULATED by and between the parties hereto through their respective
counsel of record as follows:

1. On February 5, 2008, Petitioner Jose Jesus Madrigal-Diaz, a federal inmate
currently incarcerated at FCI Dublin in Dublin, California, was sentenced to an 85-month prison

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HEARING

1 term by this Court after pleading guilty to one count of Illegal Re-Entry by an Alien After
2 Deportation in violation of 8 U.S.C. § 1326.

3 2. On January 10, 2010, Petitioner filed a Motion to Vacate, Set Aside, or Correct his
4 Sentence pursuant to 28 U.S.C. § 2255, alleging that he suffered ineffective assistance of counsel
5 by Jeffrey Glenn, his counsel in connection with his guilty plea and sentence.

6 3. After considering Petitioner's Motion, Respondent United States of America's
7 opposition to the Motion, and Petitioner's Reply, this Court issued an Order on December 27,
8 2010, finding that an evidentiary hearing was necessary to resolve conflicts in statements made
9 under oath by Petitioner, Petitioner's sister, Bertha Madrigal, and Mr. Glenn, in multiple
10 declarations submitted in connection with the Motion. The Court scheduled the hearing for
11 February 16, 2011, at 9:00 a.m.

12 4. In its December 27, 2010 Order, the Court also held that counsel shall be
13 appointed for Petitioner for the limited purpose of assisting him at the evidentiary hearing.

14 5. Pursuant to the Court's Order, in January, 2011, Michael J. Shepard was appointed
15 counsel for the Petitioner for purposes of assisting him at the evidentiary hearing. Mr. Shepard
16 has been joined by his colleague, J. Raymond Reduque, in assisting Petitioner.

17 6. Petitioner did not arrive at FCI Dublin until approximately January 24, 2011.
18 Despite counsel for Petitioner's diligence, counsel has so far been able to meet with Petitioner on
19 only two occasions for a limited amount of time. During counsel's most recent meeting with
20 Petitioner on February 10, 2011, at FCI Dublin, counsel was able to meet with Petitioner for only
21 thirty minutes, following a two-and-a-half hour delay in being processed by prison security.
22 Counsel therefore requires additional time to meet with Petitioner to adequately prepare for the
23 evidentiary hearing.

24 7. Counsel for Petitioner has conferred with counsel for Respondent, Denise Marie
25 Barton, and Ms. Barton does not object to this request for a continuance.

26 8. The parties understand that the Court is available on March 30, 2011, at 2 p.m. for
27 the evidentiary hearing. Ms. Barton has consulted with Mr. Glenn and Mr. Glenn has confirmed
28 that he also is available on March 30, 2011, at 2 p.m.

1 9. THEREFORE, the parties hereby jointly request that the evidentiary hearing
2 scheduled for February 16, 2011, at 9:00 a.m. be continued to March 30, 2011, at 2 p.m., or such
3 other later date as may be convenient for the Court.

4
5 DATED: February 11, 2011

HOGAN LOVELLS US LLP

6
7 BY: /s/
8 MICHAEL J. SHEPARD
9 Attorneys for Petitioner

10 DATED: February 11, 2011

UNITED STATES OF AMERICA

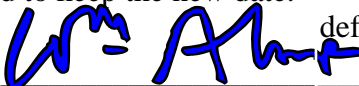
11 BY: /s/
12 DENISE MARIE BARTON
13 Attorneys for Respondent

14 ORDER

15
16 Pursuant to the stipulation of the parties, and for good cause shown, IT IS HEREBY
17 ORDERED:

18 The evidentiary hearing on Petitioner's 28 U.S.C. § 2255 petition is continued from
19 February 16, 2011, to March 30, 2011, at 2 p.m.. The parties should be aware that the judge
20 will be in the middle of a large criminal trial on March 30 (as will Mr. Glenn), and a further
21 postponement may be needed, but we will try hard to keep the new date. Counsel shall please notify
22 defendant's sister of the change.

23 DATED: February 14, 2011

24 
25 HONORABLE WILLIAM H. ALSUP
26 United States District Court Judge

27 I, Michael J. Shepard, attest that Denise Marie Barton has read and approved the
28 STIPULATION AND [PROPOSED] ORDER FOR CONTINUANCE OF EVIDENTIARY
HEARING ON PETITIONER'S 28 U.S.C. § 2255 PETITION and consents to its filing in this
action.